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7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE

10 WILLIAM MCKOBY,

11 Plaintiff,

12 v.

13 JOSEPH R. BIDEN, JR.,

14 Defendant.

CASE NO. C22-1461JLR

ORDER DISMISSING ACTION  
UNDER 28 U.S.C. § 1915(e)(2)(B)

15  
16 **I. INTRODUCTION**

17 Before the court are (1) *pro se* Plaintiff William McKoby's complaint against  
18 President Joseph R. Biden, Jr. (Compl. (Dkt. # 5)<sup>1</sup>) and (2) Magistrate Judge Brian A.  
19 Tsuchida's order granting Mr. Hudson's application to proceed *in forma pauperis* ("IFP")  
20 and recommending that the court review his complaint pursuant to 28 U.S.C.

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22 <sup>1</sup> Mr. McKoby states that he is also bringing his complaint on behalf of "W.T.P." or "We  
the People," which the court understands to refer to the people of the United States in general.  
(*See, e.g., id.* ¶ 4.2.)

§ 1915(e)(2)(B) (IFP Order (Dkt. # 4)). Under 28 U.S.C. § 1915(e), district courts have authority to review IFP complaints and must dismiss them if “at any time” it is determined that a complaint fails to state a claim on which relief may be granted. 28 U.S.C. § 1915(e)(2); *see also id.* § 1915A(b)(1); *Lopez v. Smith*, 203 F.3d 1122, 1127 (9th Cir. 2000) (clarifying that § 1915(e) applies to all IFP proceedings, not just those filed by prisoners). The court has considered Mr. McKoby’s complaint and the governing law. Being fully advised, the court DISMISSES Mr. McKoby’s complaint without prejudice and with leave to amend.

## II. BACKGROUND

Mr. McKoby alleges on behalf of himself and W.T.P. that President Biden has committed misprision of treason in violation of 18 U.S.C. § 2382, which provides:

Whoever, owing allegiance to the United States and having knowledge of the commission of any treason against them, conceals and does not, as soon as may be, disclose and make known the same to the President or to some judge of the United States, or to the governor or to some judge or justice of a particular State, is guilty of misprision of treason and shall be fined under this title or imprisoned not more than seven years, or both.

18 U.S.C. § 2382; (Compl. ¶ 1.1). He includes three nearly incomprehensible “counts” which, as best the court can discern, appear to state Mr. McKoby’s alleged bases for his claim that President Biden committed misprision of treason. (*Id.* ¶¶ 2.1-4.2.) In these “counts,” Mr. McKoby quotes various criminal statutes and constitutional provisions, but makes few intelligible factual allegations. (*See id.*) He alleges that “foreign bankers and Congress executed TREASON”; that the Federal Reserve Bank and the Internal Revenue Service “are private Corporations designed to fleece AMERICA”; and that he is filing a

petition for a federal writ of habeas corpus “against violation of all people’s supreme federal constitutional rights.” (*Id.* ¶¶ 4.1-4.2.) He seeks \$1,000,000,000 “in gold and silver coin” as relief. (*Id.* at 1.)

### III. ANALYSIS

Title 28 U.S.C. § 1915(e)(2)(B) authorizes a district court to dismiss a claim filed IFP “at any time” if it determines: (1) the action is frivolous or malicious; (2) the action fails to state a claim; or (3) the action seeks relief from a defendant who is immune from such relief. *See* 28 U.S.C. § 1915(e)(2)(B). Dismissal for failure to state a claim is proper when there is either a “lack of a cognizable legal theory or the absence of sufficient facts alleged.” *Balistreri v. Pacifica Police Dep’t*, 901 F.2d 696, 699 (9th Cir. 1990). Because Mr. McKoby is a *pro se* plaintiff, the court must construe his pleadings liberally. *See McGuckin v. Smith*, 974 F.2d 1050, 1055 (9th Cir. 1992). Nonetheless, his complaint must still contain factual allegations “enough to raise a right to relief above the speculative level.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007). The court need not accept as true a legal conclusion presented as a factual allegation. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). Although the pleading standard announced by Federal Rule of Civil Procedure 8 does not require “detailed factual allegations,” it demands more than “an unadorned, the-defendant-unlawfully-harmed-me accusation.” *Id.* (citing *Twombly*, 550 U.S. at 555); *see* Fed. R. Civ. P. 8(a) (requiring a pleading to “contain . . . a short and plain statement of the grounds for the court’s jurisdiction,” and “a short and plain statement of the claim showing that the pleader is entitled to relief”).

1 As a threshold matter, Mr. McKoby does not appear to allege an injury-in-fact  
2 sufficient to establish his standing to bring this lawsuit. *See Clapper v. Amnesty Int'l*  
3 *USA*, 568 U.S. 398, 409 (2013) (requiring a plaintiff to demonstrate that his or her injury  
4 is “concrete, particularized, and actual or imminent; fairly traceable to the challenged  
5 action; and redressable by a favorable ruling.”). Rather, Mr. McKoby’s asserted harms, if  
6 any, appear to be ““generalized grievance[s]’ shared in substantially equal measure by all  
7 or a large class of citizens” and therefore insufficient to warrant the court’s exercise of  
8 jurisdiction. *Warth v. Seldin*, 422 U.S. 490, 499 (1975). Because Mr. McKoby has failed  
9 to sufficiently allege that he has standing to bring this complaint, the court must dismiss it  
10 under 28 U.S.C. § 1915(e)(2)(B).

11 Even if Mr. McKoby had sufficiently alleged that he has standing to bring his  
12 claims, the court nevertheless concludes that his complaint fails to contain a cognizable  
13 legal theory or factual allegations sufficient to raise any right to relief above the  
14 speculative level. *Twombly*, 550 U.S. at 555. First, although Mr. McKoby appears to be  
15 aggrieved by actions by President Biden, President Franklin D. Roosevelt, the Federal  
16 Reserve Bank, the Internal Revenue Service, Senator Charles Schumer, and  
17 Representative Nancy Pelosi (*see generally* Compl.), the court cannot discern from the  
18 complaint the specific conduct on which Mr. McKoby’s claim is based. Second, no  
19 private right of action exists to enforce criminal statutes such as 18 U.S.C. § 2382. *See*  
20 *Kapu v. Att’y Gen., Hawaii*, No. CV 17-00213 DKW-RLP, 2017 WL 2115812, at \*5 (D.  
21 Haw. May 15, 2017) (dismissing purported claim for misprision of treason under 28  
22 U.S.C. § 1915 for failure to state a claim). And third, to the extent Mr. McKoby claims

1 that he is entitled to a writ of habeas corpus, he has not alleged that he is currently held in  
2 state or federal custody in violation of the United States Constitution or federal law. *See*  
3 28 U.S.C. §§ 2254(a), 2255(a). These deficiencies, too, justify dismissal of Mr.  
4 McKoby's complaint pursuant to 28 U.S.C. § 1915(e)(2)(B).

5 When a court dismisses a *pro se* plaintiff's complaint, it must give the plaintiff  
6 leave to amend "[u]nless it is absolutely clear that no amendment can cure the defect" in  
7 the complaint. *Lucas v. Dep't of Corr.*, 66 F.3d 245, 248 (9th Cir. 1995). In light of the  
8 Ninth Circuit's admonition, the court GRANTS Mr. McKoby leave to file an amended  
9 complaint. If he does so, he must include short, plain statements setting forth (1) the  
10 specific basis of the court's jurisdiction; (2) the constitutional or statutory right he  
11 believes was violated; (3) the name of the defendant or defendants who violated that  
12 right; (4) exactly what that defendant did or failed to do; (5) how the defendant's action  
13 or actions are connected to the violation of his rights; and (6) the specific injury he  
14 suffered as a result of that defendant's conduct. Mr. McKoby shall file his amended  
15 complaint, if any, no later than **November 7, 2022**. If Mr. McKoby fails to timely  
16 comply with this order or fails to file an amended complaint that remedies the  
17 aforementioned deficiencies, the court will dismiss his complaint with prejudice and  
18 without leave to amend.

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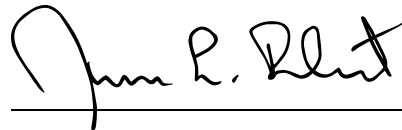
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1 **IV. CONCLUSION**

2 For the foregoing reasons, the court DISMISSES Mr. McKoby's complaint (Dkt.  
3 # 5) without prejudice and with leave to file an amended complaint that corrects the  
4 deficiencies identified herein by no later than **November 7, 2022**.

5 Dated this 20th day of October, 2022.

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8 JAMES L. ROBART  
9 United States District Judge  
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